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Return Date: March 17, 2014

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

WILLIAM B. MCGUIRE, on Behalf
Of Himself and All Others Similarly Situated,

Plaintiff,

v.

BMW OF NORTH AMERICA, LLC,

Defendant.

: Civil Action No. 2:13-cv-7356 (JLL/MAH)
:
:
:
: **NOTICE OF MOTION TO DISMISS**
: **COUNT SIX OF PLAINTIFF'S CLASS-**
: **ACTION COMPLAINT AND, OR IN**
: **THE ALTERNATIVE, TO DISMISS**
: **THE CLASS-ACTION ALLEGATIONS**
:
:
:

TO: Donald A. Eckland, Esq.
Carella Byrne, Cecchi,
Olstein, Brody & Angello, P.C.
5 Becker Farm Road
Roseland, New Jersey 07068
Attorneys for Plaintiff

COUNSEL:

PLEASE TAKE NOTICE that on Monday March 17, 2014, at 9:00 a.m. or as soon thereafter as counsel may be heard, BMW of North America, LLC ("BMW NA") will move before the Honorable Jose L. Linares, U.S.D.J., of the United States District Court for the District of New Jersey, at the Rev. Dr. Martin Luther King, Jr. Courthouse, 50 Walnut Street, Newark, New Jersey, for an Order, pursuant to Fed. R. Civ. P. 12(b)(6), dismissing Plaintiff's claim for unjust enrichment (Count Six of the Class Action Complaint), and, or in the alternative,

for an Order pursuant to Fed. R. Civ. P. 12(b)(6), 12(f), 23(c)(1)(A), and 23(d)(1)(D), dismissing his nationwide and multi-state class-action allegations.

PLEASE TAKE FURTHER NOTICE that in support of this motion BMW NA relies upon the Brief submitted and filed herewith.

PLEASE TAKE FURTHER NOTICE that oral argument is requested if opposition is filed.

PLEASE TAKE FURTHER NOTICE that the motion will be decided on the papers unless the parties are notified to the contrary.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Civil Rule 12.2, BMW NA's Answer to the Class Action Complaint is not due until the Court decides this motion to dismiss.

A proposed form of Order accompanies this motion.

BUCHANAN INGERSOLL & ROONEY, PC
Attorneys for Defendant,
BMW of North America, LLC

s/ Christopher J. Dalton

Christopher J. Dalton, Esq.
BUCHANAN INGERSOLL & ROONEY, PC
50 Broad Street, Suite 810
Newark, New Jersey 07102

Dated: February 18, 2014

CERTIFICATE OF SERVICE

On this date, I caused a copy of the foregoing Notice of Motion, Brief in Support of Motion, Declaration of Christopher J. Dalton, and proposed form of Order to be served via the Court's CM/ECF system upon:

Donald A. Eckland, Esq.
Carella Byrne, Cecchi,
Olstein, Brody & Angello, P.C.
5 Becker Farm Road
Roseland, New Jersey 07068
Attorneys for Plaintiff

s/ Christopher J. Dalton

Christopher J. Dalton

Newark, New Jersey
February 18, 2014